

Alson Knitting, Inc. and Local 169, Amalgamated Clothing and Textile Workers Union, AFL-CIO, CLC. Cases 29-CA-14316, 29-CA-14412, and 29-CA-14423

February 19, 1991

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND RAUDABAUGH

On August 31, 1990, Administrative Law Judge James F. Morton issued the attached decision. The Respondent filed exceptions and a supporting brief, and the General Counsel filed an answering brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,¹ and conclusions and to adopt the recommended Order as modified.²

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge as modified below and orders that the Respondent, Alson Knitting, Inc., Brooklyn, New York, its officers, agents, successors, and assigns, shall take the action set forth in the Order as modified.

1. Substitute the following for paragraph 2(d).

"(d) Post at its facility in Brooklyn, New York, copies in English and Spanish of the attached notice marked "Appendix."'⁵ Copies of the notice, on forms provided by the Regional Director for Region 29, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material."

¹ The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), *enfd.* 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

Additionally, we correct the following typographical errors in the judge's decision: (1) in sec. II.C, the word "postdated" in the last line of the third paragraph should read "predated"; and (2) in the remedy section the word "will" in the last sentence of the second paragraph should read "will not." These errors do not affect the validity of the judge's conclusions.

² In light of the evidence that a large number of Respondent's employees are Spanish-speaking, the judge's recommended Order is modified to provide that the Respondent post the attached notice in both English and Spanish.

The notice has been further modified to conform to the judge's recommended Order.

2. Substitute the attached notice for that of the administrative law judge.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT coercively interrogate employees as to their support for Local 169, Amalgamated Clothing and Textile Workers Union, AFL-CIO, CLC.

WE WILL NOT unlawfully poll employees to determine the extent of their support for the Union.

WE WILL NOT take union literature from our employees or position any supervisor alongside union organizers while they are distributing union literature.

WE WILL NOT make any statement to create the impression among employees that we have kept their union activities under surveillance.

WE WILL NOT lay off any employee in order to discourage support for, or membership in, the Union.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL offer Abraham Soto, Monserrat Rivera, Felicia Suazo, Leopoldo Soto, Maximo Salas, and Ernest Garrett immediate and full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed, and WE WILL make them and also Thelma Rodriguez, who has been reinstated, whole for any loss of earnings and other benefits resulting from their discharge, with interest, less any net interim earnings.

WE WILL remove all references to their unlawful layoffs from our disciplinary records and notify them in writing that this has been done and that evidence of their unlawful layoffs will not be used as a basis for any future disciplinary action against them.

ALSON KNITTING, INC.

April M. Wexler and Ann Goldwater, Esqs., for the General Counsel.

William Wallen, Esq. (Horowitz & Pollack, P.C.), of South Orange, New Jersey, for Alson Knitting, Inc.

DECISION

STATEMENT OF THE CASE

JAMES F. MORTON, Administrative Law Judge. The consolidated complaint alleges that Alson Knitting, Inc. (Re-

spondent) has engaged in unfair labor practices in violation of Section 8(a)(1) and (3) of the National Labor Relations Act (the Act). In particular, Respondent is alleged to have violated Section 8(a)(1) by having (a) unlawfully interrogated and polled its employees as to their support for Local 169, Amalgamated Clothing and Textile Workers Union, AFL-CIO, CLC (the Union); (b) created among them the impression that their union activities were being kept under surveillance; and (c) obstructed the distribution to employees of union literature. The complaint, as amended at the hearing, further alleges that Respondent has violated Section 8(a)(1) and (3) by having laid off seven employees, and by having failed to offer reinstatement to six of them in order to discourage its employees from supporting the Union. Respondent, by its answer, denied having committed any of these alleged unfair labor practices.

The hearing was held in Brooklyn, New York, on March 19, 20, and 22, 1990. On the entire record, including my observation of the demeanor of the witnesses, and after due consideration of the briefs filed by the General Counsel and by Respondent, I make the following

FINDINGS OF FACT

I. JURISDICTION—LABOR ORGANIZATION

The pleadings, as amended at the hearing, establish that Respondent operates a nonretail business which meets the Board's nonretail standard for asserting jurisdiction. The pleadings also establish that the Union is a labor organization as defined in Section 2(5) of the Act.

II. THE ALLEGED UNFAIR LABOR PRACTICES

A. Background

Respondent manufactures knitted garments and related items at its plant in Brooklyn. Its approximately 70 production and maintenance employees there are unrepresented for purposes of collective bargaining.

In March 1989 (all dates hereafter are for 1989 unless stated otherwise), the Union made its first contact with Respondent's employees. In late June, it began an organizational drive among them and on August 4, it filed a petition in Case 29-RC-7409 for an election among these employees.

B. Alleged Unlawful Interrogation

Four of the alleged discriminatees testified that, in August, Leslie Gubitz, an officer of Respondent and the father of its president, instructed each of them to report to an office. There, according to their respective accounts, each was asked by a woman who worked as a cutter to sign a sheet of paper; two of them testified that the cutter was known to them as Maria.

The accounts of these four alleged discriminatees varied as to what the cutter gave as the reason for their being asked to sign the paper during their separate interviews with her. In essence, their testimony reflected that they were being asked by her to indicate whether they supported the Union.

Leslie Gubitz denied that he instructed any employee to attend any such interview. He also testified, as did Respondent's president, that Respondent does not employ a cutter named Maria.

I credit the detailed, vivid accounts given by General Counsel's witnesses. The rote denials by Respondent's witnesses did little to offset them. Nor did Respondent offer its payroll records as to cutters in its employ. Those records, of course, may not be definitive as formal names thereon may be different than those used by employees—e.g.,—Respondent's president, Chaim Gubitz, is known as "Hymie"; the supervisor of the operators is Kourosh Shadvous but he is known by the name, Rubin. In any event, I find that the accounts given by General Counsel's witnesses are more persuasive than those of Respondent's witnesses.

The credited evidence discloses that an officer of Respondent directed employees in August to go to an office where they were interrogated by a nonsupervisory employee as to their support for the Union. No reason is given to justify the interrogations. No assurances were offered to the employees against reprisals. The questioning itself included threats.¹ The Board had occasion to consider a factually analogous situation and it found the interrogation there by a nonsupervisory employee to be unlawful. See *Delta Hosiery*, 259 NLRB 1005, 1006-1008 (1982). On the rationale of that decision, I find that the interrogation of Respondent's employees in August, as described above, coercive of employee rights set out in Section 7 of the Act.

The complaint, as amended at the hearing, alleges a further incident of unlawful interrogation. In support thereof, two of the alleged discriminatees testified that in August, a tall, dark Spanish-speaking man spoke to employees in one of Respondent's offices at the Brooklyn facility. One of these witnesses related that this man told them that Hymie Gubitz, Respondent's president, sent him because Hymie does not know which employees signed cards for the Union. The second alleged discriminatee testified that Hymie's father, Leslie, sent him to speak to this man who informed him that Hymie does not want any employee to sign a union card, to which the employee responded that he was given a union card to sign but did not sign it.

Chaim (Hymie) Gubitz testified respecting the foregoing. He related that a tall, dark individual came to the plant, identified himself as an investigator from the New York State Labor Department, and said that he wanted to speak to employees about their immigration papers. Gubitz gave a confused account as to other individuals who had come to the plant to conduct investigations. Gubitz was then asked by Respondent's counsel if Respondent instructed employees to go to an office to be questioned about their support for the Union and he replied in the negative.

I credit the accounts of General Counsel's witnesses over Gubitz' denials. For substantially the same reasons set out above as to the questioning by the woman employed as a cutter, I find that the unnamed individual acted as Respondent's agent and that Respondent thereby coercively questioned employees as to their support for the Union.

C. The Poll

Respondent engaged a friend of its president to conduct a poll of its employees as to whether they would like to be represented by the Union. Each employee was given a ballot,

¹ Two of General Counsel's witnesses related that the cutter told them that Hymie (i.e., Respondent's president) would retaliate if the Union came in. The complaint does not allege the threats as violative of the Act.

dated August 3 and written in English only, except for one phrase which was also written in Spanish and which advised the employees that they did not have to answer. The remainder of the ballot recited in English that the Union has been making a strong campaign and that Respondent wanted to project its business costs, that they should indicate whether they planned to join the Union, and that there will be no action taken as a result of how they vote.

Seventy employees marked ballots; 64 marked the "No" box; and 6 marked the "Yes" box.

General Counsel's witnesses related that the polling took place long after August 3. The petition, by the Union in Case 29-RC-7409 referred to above, was filed on August 4. I credit the accounts of the General Counsel's witnesses as several testified that they were not discharged until well after August 3 and that they had not participated in any polling while in Respondent's employ. In other words, the August 3 date on the ballots was purposely placed there to suggest that the polling postdated the Union's filing its petition for an election.

In *Struksnes Construction Co.*, 165 NLRB 1062 (1967), the Board held that polling employees as to their support of a union is unlawful unless its purpose is to determine the truth of a union's claim that it represented a majority of unit employees. There is no evidence that that was Respondent's purpose. Accordingly, I find that the polling interfered with employees' rights under Section 7 of the Act. *Struksnes* also would find polling unlawful where an employer has separately committed coercive acts. In view of the other coercive conduct found in this case, the polling is unlawful on that basis also.

D. Alleged Impression of Surveillance

Alleged discriminatee Maximo Salas testified for the General Counsel that, in August, Chaim Gubitz told him that he had a list² of those who signed union cards, that he would compare the signature on Salas' card to determine if it was genuine and that, if it was, Salas would have problems with him later on.

Gubitz denied making any such statements to Salas.

I credit Salas' account. Salas could reasonably infer from Gubitz' statement that Respondent has engaged in surveillance of the union activities of its employees. The Board has found that similar statements constituted interference with employee Section 7 rights. See *South Shore Hospital*, 229 NLRB 363 (1977). See also *Springs, Inc.*, 280 NLRB 284 fn. 2 (1986). I thus find that Gubitz' statement was coercive of these rights.

E. Alleged Interference with Union's Distribution of Material

Alejandro Fuentes, an organizer employed by the Union, testified as follows. On October 13, he was standing on the sidewalk outside Respondent's premises, waiting for employees to exit at the end of their shift. He was there to distribute union literature to them. Leslie Gubitz approached him and they talked briefly. About five or six employees came out. Fuentes handed leaflets to them. Gubitz became angry and took the leaflets out the employees' hand. Gubitz then went into the plant. No employees came out for the next 4 or 5

minutes. When they did come out, employees were reluctant to take the leaflets from him. Gubitz stood about 10 feet from Fuentes while the rest of the employees left the plant.

Other evidence indicates that Fuentes was not on Respondent's property then. He was standing on a public sidewalk adjacent to the plant.

Leslie Gubitz' account as to this incident is as follows. At about closing time, he saw a man outside the plant and asked who he was looking for. The man told him he worked for the Union, and was there to see the workers. While they were talking, two employees passed by. The man gave them leaflets. Gubitz asked the man for a leaflet but the man refused to give him one. One of the employees, however, handed him the leaflet that she had just received. Gubitz went inside the plant in order to read the leaflet. When he saw that the leaflet was in Spanish, however, he came outside, gave it to the union organizer, and went home. At that point, there were only two or three employees still inside the plant.

On cross-examination, Gubitz stated that virtually all the employees had left the plant when he first talked with the union organizer that day. That testimony appears to be inconsistent with Gubitz' other testimony that, when he first approached the union organizer, the organizer told him, in response to Gubitz' question, that he was there to see the employees; in context, that he was there in order to give leaflets to the employees as they came out of the plant at the end of the shift.

During his cross-examination, Gubitz stated that, when he was given the leaflet outside the plant, he saw then that it was written in Spanish and that he then went back to the plant to find someone to translate it for him. That testimony appears to controvert the account he gave during his direct examination, related above.

I find that Fuentes' account is more probably true than Leslie Gubitz' and thus credit it.

The credited testimony establishes that Respondent, with no lawful basis to do so, physically impeded the Union as to its right of access to employees, a right protected by Section 7 of the Act. Cf. *Lechmere, Inc.*, 295 NLRB 92 (1989).

F. The Alleged Discriminatory Layoffs

As noted above, the Union first made contact with Respondent's employees in March, began its organizational drive in June, and filed its petition for an election on August 4.

The complaint, as amended at the hearing, alleges that Respondent unlawfully laid off seven employees between August 1 and September 1. The testimony as to these seven is set out below for each.

1. Abraham Soto

He testified as follows. He was employed by Respondent for about 8 years, principally as a presser. On March 3, he signed a union authorization card. His union activities also consisted of his speaking to coworkers about joining the Union and distributing authorization cards. On the day immediately preceding the last day he worked for Respondent, he talked with another employee about signing an authorization card. They were standing on the sidewalk alongside Respondent's building. Kourosh Shadvous who was known to employees as Rubin and who was Soto's foreman, was look-

²The transcript reads "least" for "list."

ing down at them from an open window on the third floor. On the following day, as he returned from lunch, Soto was told by Shadvous that he was laid off for lack of work. Soto protested that there was plenty of work. Shadvous replied that Hymie (Chaim Gubitz) had instructed him to lay Soto off. Other pressers with less seniority than Soto were not laid off.

Chaim Gubitz testified that he caught Soto in the process of stealing a sweater and discharged him immediately. Gubitz related that Soto had been discharged by Respondent previously when he was employed under a different name.

On September 22, Gubitz, on the advice of his attorney, sent Soto a mailgram recalling him to work.

Soto testified that he reported to Respondent's facility on receipt of the mailgram and, while he was talking with Shadvous, Chaim Gubitz came by and told him repeatedly to get out of there, using expletives for emphasis. Shadvous did not refer to that discussion during his testimony.

I credit Soto's account. It seems unlikely that Gubitz, if he had really caught Soto in the act of stealing, would have readily acceded to advice that Soto be recalled to work. Moreover, Soto's testimony, as to what transpired when he reported after being recalled, is virtually uncontroverted.

2. Monserrat Rivera

She began working for Respondent in 1985 operating a crochet machine and transferred to a merrow machine in 1987, a job she held until she was discharged on August 11, 1989.

On August 1, she signed a union authorization card. She was one of the employees referred to a female cutter by Leslie Gubitz for questioning, as related above; that interview took place on a Friday. Rivera credibly testified that she informed that individual then that she, Rivera, supported the Union. On the following Monday, she reported for work. Her account as to what took place then follows.

Her timecard was not in the rack. Her supervisor (Rubin) Shadvous told her that he had no work for her because work is slow. She responded that there was work for her machine. He then said that he was sorry but he was just following Hymie's order.

She later received two letters from Respondent recalling her to work. She ignored the first because she believed she would be treated badly. She did report for work pursuant to the second letter. She reported to Rubin who told her he knew nothing about her being recalled and that he had no work for her. Rubin asked her why she wanted to work for Respondent when she had not been treated well. He told her that she could return the following Monday. She did not return on that Monday or since, because of those comments by Shadvous.

Rivera also testified that she never had any problem with her work and had never received any warnings from Respondent.

Chaim Gubitz testified that Rivera had been discharged because she talked to too many employees too often while away from her machine during working time and that Shadvous had twice told her of Rivera's excessive talking. Rubin testified that he told Gubitz of Rivera leaving her machine to talk to coworkers. However, Shadvous did not testify as to any discussion he had with Rivera on her reporting back to work after receiving a recall letter from Respondent.

I credit Rivera's vivid account.

3. Felicia Suazo

She worked for Respondent for 4 years as a sewing machine operator until her lay off on August 15. She had signed a union authorization card on August 1 and was one of the employees who was unlawfully interrogated by the female cutter, referring to the incident recounted above. Suazo, during that interview, told the female cutter that she, Suazo, had done nothing wrong in signing a union card.

Suazo testified that, on August 15, Rubin Shadvous came to her while she was working and told her that she was laid off for lack of work. She protested, to no avail, that she had in fact too much work to do.

She later received a recall letter. She testified that, when she reported, Shadvous told her that she should look for work elsewhere and to come back if she did not find a job. She received a second recall letter. When she again reported for work, according to her testimony, Shadvous told her that he had no work for her and wanted to know why she wanted to work for Respondent when, with her skills, she could find work elsewhere.

Shadvous testified that Suazo's employment ended when she asked for a 50-cent-an-hour raise, at which point he referred her to Chaim Gubitz. He also testified that he never spoke with her about the recall letters she received.

Chaim Gubitz testified that Suazo knocked on his office door, came in, and yelled to him in Spanish that she did a lot of work for "little pay." He testified that he told her to return to work because he did not like her yelling and that she then left his office. Gubitz was then asked why he sent Suazo a recall letter after she had been fired; Gubitz answered that he was following the instruction of his attorney.

Gubitz' account seems strained and improbable. Further Suazo did not impress me as assertive as Gubitz' account made her out to be. I credit Suazo's testimony.

4. Leopoldo Soto

Soto began working for Respondent in 1985. He cleaned machines and delivered material to the operators. On June 21, he signed a union authorization card. Several days after he was interrogated by the female cutter referred to above, he was told by Chaim Gubitz, according to Soto's testimony, that he was laid off for lack of work. He asked why he was being laid off while new employees were being hired and, he related, Gubitz simply replied that Soto was no longer needed. Soto related too that his helper was not laid off.

Soto received a letter recalling him to work. When he reported, he was assigned to work in the basement moving boxes that weighed about 100 pounds each. He testified that this job was much more onerous than the job he held before his layoff, which did not involve any heavy lifting. Soto protested to Gubitz who told him that he was free to leave any time he wanted to. He left.

Chaim Gubitz testified that Soto left after cursing at him when he told Soto to put his bag in his locker. Gubitz further testified that Soto reported back to work after he sent Soto a letter asking him to return and that Soto quit when assigned to work in the basement on a job not more arduous than the one he held previously.

Rubin Shadvous, Soto's supervisor, testified that he did not know why Soto had been fired.

I credit Soto's testimony. It seems highly unlikely to me, if Soto cursed at Gubitz and was discharged for it, that his own supervisor would be ignorant of such an incident. Soto's account is more persuasive.

5. Maximo Salas

Salas worked for Respondent, for about 9 months, as a packer. In June, he signed a union authorization card. In August, he was among the employees questioned about the Union by the woman cutter; he refused her request to sign the paper that she said Chaim Gubitz wanted the employees to sign. About 8 days afterwards, Chaim Gubitz told him on a Friday that he would check the signature on a union card to see if it was really Salas'. Salas protested then that he had signed nothing.

Salas testified that, on the following Monday, he was laid off and told it was for lack of work.

In September, Salas received a recall letter. He related that, when he reported for work, Rubin Shadvous told him that he knew nothing about the letter and suggested he come back to talk to Gubitz. Salas left and did not come back. He testified that he did not return because "they were tricking" him.

Rubin Shadvous testified that Salas quit to go back to school. Chaim Gubitz essentially gave the same explanation as to Salas' leaving Respondent's employ. Rubin Shadvous did not controvert Salas' testimony as to what transpired when Salas reported for work pursuant to the recall letter.

I credit Salas' testimony.

6. Thelma Rodriguez

Rodriguez began working for Respondent on February 21 as a sewing machine operator. She signed a union authorization card on July 27. Just prior to her voting at the polling described above, Leslie Gubitz said to her, "No union, no Union." She replied, "Yes. Yes." She testified that, on September 1, she was told by Rubin Shadvous that she was laid off for lack of work when, in fact, there was work for her.

On September 19, her lawyer told her to go back to Respondent and, when she did so, she was put back to work. Later, she received a recall letter from Respondent but she was already back to work.

Gubitz testified that Rodriguez had left her machine too many times to go to the bathroom. The inference, I suppose, is that was the reason the Respondent had for letting her go. Rubin Shadvous, her supervisor, testified that he did not remember why Rodriguez left Respondent's employ.

I credit Rodriguez' testimony.

7. Ernest Garrett

Rodriguez testified that Garrett is a woman who also used the name Melinda Mendez. Garrett did not testify.

Rodriguez testified that she was present, in August, when Rubin Shadvous told Garrett that she had to leave because he was not going to give her more work. Garrett did the same type work as Rodriguez did. Rodriguez further testified that Garrett protested that there was plenty of work for her to do but that Shadvous replied that Garrett can get work in another factory.

Garrett had signed a union authorization card on August 8.

Shadvous testified that he did not tell Garrett that he had no more work for her.

Respondent took the position at the hearing that Garrett was laid off and that it disputed the reason proffered by the General Counsel therefor. However, Respondent offered no evidence as to its reason for laying her off.

I credit Rodriguez' account as to Garrett's layoff.

G. Analysis as to the Layoffs

The credited evidence establishes that all seven of the alleged discriminatees were union supporters, that Respondent had good reason to know that several actively supported the Union, that Respondent had engaged in independent acts coercive of employee Section 7 rights, that these seven employees were laid off for reasons that appear clearly pretextual and that their layoffs were in close proximity in time to the Union's filing of an election petition. I am satisfied that the General Counsel has made out a prima facie case that these layoffs were designed to discourage employees from supporting the Union.

Under *Wright Line*, 251 NLRB 1083 (1980), the burden thus shifts to Respondent to establish that, absent the union activities of these employees, their layoffs would still have been effected. Respondent cannot begin to meet that burden as it offered no credible evidence thereon.

I thus find that Respondent laid off these seven employees in order to discourage its employees from joining or supporting the Union.

I further find that the nominal letters of recall that Respondent sent the discriminatees were charades, as is evident from the events that transpired when the discriminatees, on receiving the letters, reported to the plant.

CONCLUSIONS OF LAW

1. Respondent is an employer within the meaning of Section 2(2), (6), and (7) of the Act.

2. The Union is a labor organization as defined in Section 2(5) of the Act.

3. Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act by having interfered with, restrained, and coerced its employees in the exercise of their rights under Section 7 of the Act by having:

(a) Coercively interrogated its employees as to their support for the Union.

(b) Polled them, without lawful basis, to determine the extent of their support for the Union.

(c) Taken union literature from employees and by having a supervisor stand by union organizers while they distribute union literature.

(d) Created the impression among them that it kept their union activities under surveillance.

(e) Engaged in the conduct described in the next paragraph.

4. Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(3) of the Act by having laid off the following named employees in order to discourage them and its other employees from joining or supporting the Union:

Abraham Soto
 Monserrat Rivera
 Felicia Suazo
 Leopoldo Soto
 Maximo Salas
 Thelma Rodriguez
 Ernest Garrett

5. The unfair labor practices described above affect interstate commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

Having found that Respondent has engaged in unfair labor practices in violation of Section 8(a)(3) and (1) of the Act, I shall recommend that it be ordered to cease and desist therefrom and that it take certain affirmative action to effectuate the policies of the Act.

Respondent, having unlawfully laid off the seven employees named above, shall offer all but Thelma Rodriguez immediate and full reinstatement to their former jobs,³ or if such jobs no longer exist, to substantially equivalent jobs, without prejudice to their seniority or other rights and privileges and to make all seven employees whole for any loss of earnings that they may have suffered by reason of Respondent's unlawful conduct against them by paying to each a sum of money equal to that which each normally would have earned from the date of their unlawful layoff to the date of a bona fide offer of reinstatement, less interim earnings during such period. Backpay shall be computed on a quarterly basis as prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest thereon to be computed in accordance with *New Horizons for the Retarded*, 283 NLRB 1173 (1987). Moreover, consistent with the Board's decision in *Sterling Sugars*, 261 NLRB 472 (1982), I shall recommend that Respondent be required to remove from its records any references to the unlawful layoffs and provide each with written notice of such action, and to inform each that Respondent's unlawful conduct will be used as a basis for future disciplinary action.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended⁴

ORDER

The Respondent, Alson Knitting, Inc., Brooklyn, New York, its officers, agents, successors, and assigns, shall

³ Respondent shall, in offering reinstatement, expressly state in writing to each of them that it acknowledges that its previous letter was not valid, that it now makes a genuine offer and that it guarantees that they will be reinstated immediately on their reporting back.

⁴ If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

1. Cease and desist from

(a) Coercively interrogating its employees as to their support for Local 169, Amalgamated Clothing and Textile Workers Union, AFL-CIO, CLC (the Union).

(b) Polling them, without lawful basis, to determine the extent of their support for the Union.

(c) Taking union literature from employees and having a supervisor stand alongside union organizers while they distribute union literature.

(d) Creating the impression among them that it kept their union activities under surveillance.

(e) Laying off employees in order to discourage support for the Union.

(f) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Offer to Abraham Soto, Monserrat Rivera, Felicia Suazo, Leopoldo Soto, Maximo Salas, and Ernest Garrett immediate reinstatement to their former jobs in the manner described in the remedy section of this decision and make them and Thelma Rodriguez whole for any loss of earnings in the manner also set forth in the remedy section.

(b) Remove from its employment records all references to the unlawful layoffs of the above-named employees, and notify them in writing that this has been done, and that evidence of their unlawful layoffs will not be used as a basis for any future disciplinary action against them.

(c) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(d) Post at its facility in Brooklyn, New York, copies of the attached notice marked "Appendix."⁵ Copies of the notice, on forms provided by the Regional Director for Region 29, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(e) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

⁵ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."